

AMENDMENT TO H.R. 2356, AS REPORTED
(SHAYS SUBSTITUTE)

OFFERED BY _____

Add at the end title II the following new subtitle:

1 **Subtitle C—Exemption of Commu-**
2 **nications Pertaining to Civil**
3 **Rights**

4 **SEC. 221. FINDINGS.**

5 Congress finds the following:

6 (1) More than 70 million people in the United
7 States belong to a minority race.

8 (2) More than 34 million people in the United
9 States are African American, 35 million are His-
10 panic or Latino, 10 million are Asian, and 2 million
11 are American Indian or Alaska Native.

12 (3) Minorities account for around 24 percent of
13 the U.S. workforce.

14 (4) Minorities, who owned fewer than 7 percent
15 of all U.S. firms in 1982, now own more than 15
16 percent. Minorities owned more than 3 million busi-
17 nesses in 1997, of which 615,222 had paid employ-
18 ees, generated more than \$591 billion in revenues,
19 created more than 4.5 million jobs, and provided
20 about \$96 billion in payroll to their workers.



1 (5) Self-employment as a share of each group's
2 nonagricultural labor force (averaged over the 1991-
3 1999 decade) was White, 9.7 percent; African Amer-
4 ican, 3.8 percent; American Indian, Eskimo, or
5 Aleut, 6.4 percent; and Asian or Pacific Islander,
6 10.1 percent.

7 (6) Of U.S. businesses, 5.8 percent were owned
8 by Hispanic Americans, 4.4 percent by Asian Ameri-
9 cans, 4.0 percent by African Americans, and 0.9
10 percent by American Indians.

11 (7) Of the 4,514,699 jobs in minority-owned
12 businesses in 1997, 48.8 percent were in Asian-
13 owned firms, 30.8 percent in Hispanic-owned firms,
14 15.9 percent in African American-owned firms, and
15 6.6 percent in American Native-owned firms.

16 (8) Minority-owned firms had about \$96 billion
17 in payroll in 1997. The average payroll per employee
18 was roughly \$21,000 in the major minority groups
19 and ranged from just under \$15,000 to just over
20 \$27,000 in various subgroups of the minority popu-
21 lation.

22 (9) African Americans were the only race or
23 ethnic group to show an increase in voter participa-
24 tion in congressional elections, increasing their pres-
25 ence at the polls from 37 percent in 1994 to 40 per-



1 cent in 1998. Nationwide, overall turnout by the vot-
2 ing-age population was down from 45 percent in
3 1994 to 42 percent in 1998.

4 (10) In 2000, there were 8.7 million African
5 American families. The United States had 96,000
6 African American engineers, 41,000 African Amer-
7 ican physicians and 47,000 African American law-
8 yers in 1999.

9 (11) The number of Asians and Pacific Island-
10 ers voting in congressional elections increased by
11 366,000 between 1994 and 1998.

12 (12) Businesses owned by Asians and Pacific
13 Islanders made up 4 percent of the nation's 20.8
14 million nonfarm businesses.

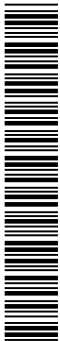
15 (13) Asians tend to have larger families - the
16 average family size is 3.6 persons, as opposed to an
17 average Caucasian family of 3.1 persons.

18 (14) The First Amendment to the United
19 States Constitution states that, "Congress shall
20 make no law respecting an establishment of religion,
21 or prohibiting the free exercise thereof; or abridging
22 the freedom of speech, or of the press; or of the
23 right of the people to peaceably assemble, and to pe-
24 tition the Government for a redress of grievances."



1 (15) The Supreme Court recognized and em-
2 phasized the importance of free speech rights in
3 *Buckley v. Valeo*, where it stated, “A restriction on
4 the amount of money a person or group can spend
5 on political communication during a campaign nec-
6 essarily reduces the quantity of expression by re-
7 stricting the number of issues discussed, the depth
8 of their exploration, and the size of the audience
9 reached. This is because virtually every means of
10 communicating ideas in today’s mass society re-
11 quires the expenditure of money. The distribution of
12 the humblest handbill or leaflet entails printing,
13 paper, and circulation costs. Speeches and rallies
14 generally necessitate hiring a hall and publicizing
15 the event. The electorate’s increasing dependence on
16 television, radio, and other mass media for news and
17 information has made these expensive modes of com-
18 munication indispensable instruments of effective po-
19 litical speech.”.

20 (16) In response to the relentlessly repeated
21 claim that campaign spending has skyrocketed and
22 should be legislatively restrained, the *Buckley* Court
23 stated that the First Amendment denied the govern-
24 ment the power to make that determination: “In the
25 free society ordained by our Constitution, it is not

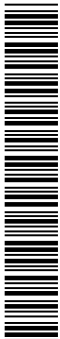


1 the government but the people—individually as citi-
2 zens and candidates and collectively as associations
3 and political committees—who must retain control
4 over the quantity and range of debate on public
5 issues in a political campaign.”.

6 (17) In *Buckley*, the Court also stated, “The
7 concept that government may restrict the speech of
8 some elements of our society in order to enhance the
9 relative voice of others is wholly foreign to the First
10 Amendment, which was designed ‘to secure the
11 widest possible dissemination of information from di-
12 verse and antagonistic sources,’ and ‘to assure un-
13 fettered exchange of ideas for the bringing about of
14 political and societal changes desired by the
15 people’ ”.

16 (18) Citizens who have an interest in issues
17 about or related to civil rights have the Constitu-
18 tional right to criticize or praise their elected offi-
19 cials individually or collectively as a group. Commu-
20 nications in the form of criticism or praise of elected
21 officials is preciousy protected as free speech under
22 the First Amendment of the Constitution of the
23 United States.

24 (19) This title contains restrictions on the
25 rights of citizens, either individually or collectively,



1 to communicate with or about their elected rep-
2 resentatives and to the general public. Such restric-
3 tions would stifle and suppress individual and group
4 advocacy pertaining to politics and government—the
5 political expression at the core of the electoral proc-
6 ess and of First Amendment freedoms—the very en-
7 gine of democracy. Such restrictions also hinder citi-
8 zens’ ability to communicate their support or opposi-
9 tion on issues concerning civil rights to their elected
10 officials and the general public.

11 (20) Candidate campaigns and issue campaigns
12 are the primary vehicles for giving voice to popular
13 grievances, raising issues and proposing solutions.
14 An election, and the time leading up to it, is when
15 political speech should be at its most robust and un-
16 fettered.

17 **SEC. 222. EXEMPTION FOR COMMUNICATIONS PERTAINING**
18 **TO CIVIL RIGHTS.**

19 None of the restrictions or requirements contained in
20 this title or the amendments made by this title shall apply
21 to any form or mode of communication to the public that
22 consists of information or commentary regarding the
23 statements, actions, positions, or voting records of any in-
24 dividual who holds congressional or other Federal office,



1 or who is a candidate for congressional or other Federal
2 office, on any matter pertaining to civil rights.

